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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/044,675	01/10/2002	Steven C. Sinn	291P007	3301

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EXAMINER

KEENAN, JAMES W

ART UNIT	PAPER NUMBER
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3652

DATE MAILED: 12/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/044,675

Applicant(s)

SINN ET AL.

Examiner

James Keenan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7, 9-15 and 17 is/are rejected.
- 7) ☒ Claim(s) 6, 8, 16 and 18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 April 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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1. Applicant's election of Group I (claims 1-18) in Paper No. 5 is acknowledged.

Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). Note that this is a restriction between inventions, not an election of species, as indicated by applicant.

2. Claim 19 is withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 5.

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 136. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

4. Claims 5-8 and 15-18 are objected to because of the following informalities: the recitations of "said assembly" and "said push assembly" should be consistent; also, in claims 8 and 18, last line, "then" should be --than--. Appropriate correction is required.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 1-5 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown (US 869,689) in view of Murano et al (US 5,678,974).

Brown shows a vehicle positioning apparatus for moving a vehicle adjacent an unloader L, including support surface C², movable member P, joining member E, and moving means W. Although the unloader is not for livestock, since this is not a positively claimed limitation, and since the positioning apparatus could be used with a livestock unloader, this does not define over the reference. Brown, however, shows the joining member to merely push the vehicle rather than attaching to it.

Murano et al show a device for positioning a vehicle wherein a hitch 40 is used to attach to the vehicle for subsequent positioning thereof.

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It would have been obvious for one of ordinary skill in the art at the time of the invention to have modified the apparatus of Brown by utilizing a hitch to attach to the vehicle, as shown by Murano et al, as this would provide a more secure engagement of the vehicle during positioning thereof.

Re claim 5, although Murano et al utilize a cylinder 60, it is a rodless cylinder along which block member 61 moves rather than an extendable and retractable cylinder. Through a rack and pinion mechanism, this ultimately drives the movable member to which the hitch is attached. This provides for a compact drive arrangement (1:2 drive ratio). However, Murano et al do state that any other type of drive could be used, and therefore, it would have been an obvious design expediency to have utilized an extendable/retractable cylinder when modifying the apparatus of Brown, as this would be a much simpler system in which the advantages of a compact drive mechanism would not be needed.

Re claim 7, the use of a brake is considered an obvious design expediency, particularly in the absence of any disclosed features or advantages thereof.

8. Claims 9-15 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown in view of Murano et al, as applied to claims 1-5 and 7 above, and further in view of Weldy et al (US 3,722,477, cited by applicant) and Jerome (US 6,109,215).

The modified apparatus of Brown does not show the unloader to be a stationary livestock unloader with a base and a primary index comprising a telescopic conveyor for extending into and retracting out of a storage unit on the vehicle.

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Weldy et al show a poultry handling apparatus including stationary (when in use) base member 20 and a telescopic conveyor section 80 with an end 90 adapted to extend into and retract out of storage units C on a vehicle. The device is for loading poultry and the vehicle is moved relative to the loading device.

Jerome shows a poultry handling apparatus including a conveyor 43 which can be used for loading and unloading poultry to and from storage units 15 on a vehicle.

It would have been obvious for one of ordinary skill in the art at the time of the invention to have further modified the apparatus of Brown by utilizing it in a system for unloading poultry from storage units on a vehicle, and by using a telescopic conveyor for extending into and retracting out of storage units on the vehicle, as jointly suggested by Weldy et al and Jerome, as this would allow for greater flexibility of the unloading device.

Re claims 11-13, note elevating support member 170, pivotally mounted mobile belt section 40, and stationary (when in use) conveyor section 60 of Weldy et al, all of which would obviously be included in the unloading portion of the modified apparatus of Brown as described above.

9. Claims 9-15 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weldy et al in view of Jerome, Brown, and Murano et al.

Weldy et al, as noted above, is used for loading rather than unloading poultry, and does not show any particular means of moving the vehicle relative to the apparatus.

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As noted above, Jerome teaches a conveyor that can be used for loading as well as unloading poultry, Brown shows a means of moving a vehicle relative to an unloading apparatus, and Murano et al show a hitch for connecting to a vehicle to be moved.

It would have been obvious for one of ordinary skill in the art at the time of the invention to have modified the apparatus of Weldy et al such that it could be used for unloading poultry, and to have utilized a device for moving the vehicle relative to the unloading apparatus, including a hitch for connecting to the vehicle, as jointly suggested by Jerome, Brown, and Murano et al, as this would greatly increase the usefulness of the apparatus without requiring undue experimentation or producing unexpected results.

10. Claims 6, 8, 16, and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims, and to overcome the objections noted above in paragraph 4.

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

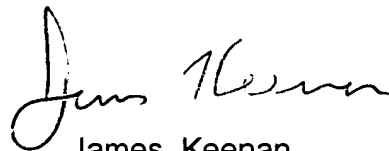
12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Keenan whose telephone number is 703-308-

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2559. The examiner can normally be reached on Monday through Thursday, although this may vary.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on 703-308-3248. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

A handwritten signature in black ink, appearing to read "James Keenan".

James Keenan
Primary Examiner
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jwk
12/11/03